

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STEVEN MANNING and SHEILA
MANNING, individually and as husband and
wife,

Plaintiffs,

vs.

FIRST NATIONAL INSURANCE
COMPANY OF AMERICA, a foreign
insurance company,

Defendant..

No.

DECLARATION OF JOHN M. SILK IN
SUPPORT OF REMOVAL TO FEDERAL
COURT PURSUANT TO 28 U.S.C. §§ 1441
& 1446

I, John M. Silk, declare:

1. I am one of the attorneys for the defendant. I am competent to testify, and I make this declaration based on my personal knowledge and on my review of the business records of the defendant.

2. On December 7, 2022, Defendant First National Insurance Company of America ("FNIC") will file with the United States District Court for the Western District of Washington at Seattle a Notice of Removal to Federal Court pursuant to 28 U.S.C. §§ 1441 &



1 1446. As required by 28 U.S.C § 1446(d), Notice of the Removal is being provided to both
 2 the Superior Court of King County and Plaintiffs' attorney.

3 3. On November 18, 2022, a Summons and Complaint in this matter, *Steven*
 4 *Manning and Sheila Manning v. First National Insurance Company of America*, King County
 5 Superior Court Case No. 22-2-18811-1 SEA, was served on FNIC by way of service on
 6 Washington's Office of the Insurance Commissioner and Corporation Service Company.
 7 Attached as **Exhibit 1** is a true and correct copy of the document served on FNIC: a
 8 summons, a complaint, acceptance of service from the Office of Insurance Commissioner and
 9 the superior court's scheduling order.

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 11 4. Plaintiffs assert claims for Underinsured Motorist payments under the
 12 insurance policy and for alleged breach of contract, bad faith, negligence and violations of the
 13 Insurance Fair Conduct Act and the Consumer Protection Act. *See Exhibit 1*, Paragraphs 4.1
 14 through 6.3. The amount of damages was identified in Plaintiffs' complaint as being
 15 Plaintiffs' policy limit of \$100,000. *See Exhibit 1*, Paragraph 3.9 and **Exhibit 2** (Plaintiffs'
 16 demand email dated October 8, 2021). In addition to Plaintiffs' UIM claim, Plaintiffs seeks
 17 treble damages, penalties and attorney fees under the Consumer Protection Act ("CPA") and
 18 Insurance Fair Conduct Act ("IFCA"), which are included for calculating whether a plaintiff's
 19 claim meets the amount in controversy requirement. *See e.g., Guglielmino v. McKee Foods*
 20 *Corp.*, 506 F.3d 696, 700 (9th Cir. 2007). Defendant does not agree that Plaintiffs are entitled
 21 to payment of \$100,000 for their UIM claim and denies any liability to Plaintiffs under the
 22 CPA and IFCA. Therefore, it is clear that the amount in controversy in this action exceeds
 23 \$75,000.
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5. FNIC has removed this matter within 30 days after it first became removable, as required by 28 U.S.C. § 1446(b). FNIC will give written notice of the filing of this Notice of Removal to all attorneys of record and to the Clerk of the Superior Court of King County, Washington, as required by 28 U.S.C. § 1446(d).

6. First National Insurance Company of America is a foreign corporation currently incorporated under the laws of the State of New Hampshire with its principal place of business in Boston, Massachusetts and for purposes of diversity jurisdiction is a citizen of a state other than Washington.

7. Below is the King County Superior Court docket regarding *Manning et ux. v. First National Insurance Company of America* as of December 7, 2022:

22-2-18811-1 SEA

MANNING ET ANO VS FIRST NATIONAL INSURANCE CO OF AMERICA

Tort /Motor Vehicle - Active

Request Access to Sealed Documents

Request Fee Waiver

Purchase/View Court records

Summary

Participants

Document List

Events

Judgments

Documents

Documents List

Sub Number	Date Filed	Document Name	Additional Information	Page #	Seal
1	11/15/2022	CMPTMV - Complaint for Tort - Motor Vehicle		10	
3	11/15/2022	CICS - Case Information Cover Sheet		1	
2	11/15/2022	ORSCS-CV - Order Setting Case Schedule - Civil		6	
4	11/15/2022	SM - Summons		2	
5	11/29/2022	NTAPR - Notice of Appearance		2	

1 The Summons, Complaint, Acceptance of Service and Order Setting Case Schedule are
2 attached hereto as **Exhibit 1**. Attached hereto as **Exhibit 3** are true and correct copies of the
3 Case Information Sheet and Notice of Appearance.

4 I declare under penalty of perjury under the laws of the State of Washington that the
5 foregoing is true and correct.
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7 SIGNED this 7th day of December, 2022, at Seattle, Washington.

8 *s/ John M. Silk*
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10 John M. Silk, WSBA No. 15035
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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on the below date I filed the foregoing document with the Clerk of the Court of the Western District of Washington using the court's CM/ECF system and I caused a true and correct copy to be served on:

Attorney for Plaintiffs

Loren A. Cochran
Nicholas B. Douglas
Cochran Douglas, PLLC
4826 Tacoma Mall Blvd, Suite C
Tacoma, WA 98409-7108
() Via U.S. Mail
() Via Facsimile
() Via Hand Delivery
(X) Via Email: loren@cochrandouglas.com
cole@cochrandouglas.com

SIGNED this 7th day of December, 2022, at Seattle, Washington.

s/ Traci Jay
Traci Jay